



THE ATTORNEY GENERAL
OF TEXAS

August 30, 1990

JIM MATTOX
ATTORNEY GENERAL

Ms. Annette Jones
Assistant City Attorney
City of Waco
P.O. Box 2570
Waco, Texas 76702-2570

OR90-420

Dear Ms. Jones:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 10119.

The City of Waco received five separate requests. You ask about the public availability of three of them:

1. The minutes of the Planning Commission and City Council public hearing where the Sanger Heights Conservation District was created; the notice sent to property owners; and notice of the public hearing;
2. The minutes of the Planning Commission and City Council public hearing on the rezoning of property at 510 North 20th St.; a copy of the petition signed by protesters;
3. The minutes of the Planning Commission and City Council public hearing on the rezoning of property at 2219-21 West Waco Drive and a copy of the petition signed by protesters.

You raise exception 3(a)(3) to the release of this information and submit for our inspection a copy of a petition in a lawsuit filed against the City of Waco and two city employees for the rezoning of some property within the Sanger Heights Neighborhood Conservation District.

The Texas Open Meetings Act requires that all meetings held by a governmental body be preceded by public notice. V.T.C.S. art. 6252-17, § 3A (a). Likewise, the minutes of

open meetings held by a governmental body are public records. V.T.C.S. art. 6252-17, § 3B. See also Open Records Decision No. 225 (1979). Information which is specifically made public by statute is not excepted from disclosure by section 3(a)(3) of the Open Records Act. Open Records Decision Nos. 146 (1976), 43 (1974). Moreover, section 3(a)(3) does not protect the minutes of a governmental body's public meeting. Open Records Decision No. 221 (1979). Consequently, the minutes and the notices of the three public hearings of the Planning Commission and the City Council must be released.

We did not receive a copy of "the petition signed by protesters against this property owner using his property" referred to in the second and third requests above. For section 3(a)(3) to apply, the requested information must relate to pending or reasonably anticipated litigation. Open Records Decision No. 551 (1990). After examining the petition in the pending lawsuit, it is evident that these petitions relate to the litigation. See Plaintiff's petition, section VI. They may be withheld based on section 3(a)(3).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have question about this ruling please refer to OR90-420.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Opinion Committee

KHG/le

cc: Mr. Herman Bell, Sr.
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